

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

SYBASE, INC., a Delaware Corporation,

Plaintiff,

v.

VERTICA SYSTEMS, INC.,
a Delaware Corporation,

Defendant.

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CIVIL ACTION NO. 6:08cv24

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Sybase, Inc. (“Sybase”) files this Complaint against Defendant Vertica Systems, Inc. (“Vertica”) and, in support thereof, states and alleges as follows:

JURISDICTION

1. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. Section 1, *et seq.*

2. This Court has subject matter jurisdiction over this action under 28 U.S.C. Sections 1331 and 1338(a).

3. The Court has personal jurisdiction over Vertica because Vertica has substantial contacts with the Eastern District of Texas and has committed the tort of patent infringement within this judicial District.

4. Sybase is informed and believes and thereon alleges that Vertica has conducted and conducts business within the State of Texas, including in this judicial District.

5. Sybase is further informed and believes and thereon alleges that Vertica, directly and/or through intermediaries (including distributors, channel partners and/or others), ships, distributes, offers for sale, sells, and/or advertises its products, including the products herein accused of patent infringement, in the United States, the State of Texas, and the Eastern District

of Texas.

6. Sybase is further informed and believes and thereon alleges that Vertica, among other things: (a) markets, offers to sell, sells and/or induces others to use its infringing products in the Eastern District of Texas via Vertica's website; (b) markets, offers to sell, sells and/or induces others to use its infringing products via nationwide marketing efforts directed to citizens and inhabitants of the Eastern District of Texas; and (c) purposefully and voluntarily places one or more of its infringing products into the stream of commerce with the expectation that they will be purchased by consumers throughout the United States, including in the Eastern District of Texas, and with the result that such products have been and continue to be offered for sale, sold, and/or used by consumers in the Eastern District of Texas.

7. By, among other things, knowingly inducing others to infringe Sybase's patent in the Eastern District based upon the foregoing activities, Vertica is subject to specific jurisdiction in the Eastern District of Texas.

VENUE

8. Venue in this judicial district is proper under the provisions of 28 U.S.C. Sections 1391(b)-(c) and 1400(b) because, on information and belief, Vertica resides in this judicial District, as it is subject to personal jurisdiction in the Eastern District of Texas.

9. Further, Vertica has committed acts of infringement in this District, including inducing infringement in this District.

PARTIES

10. Sybase is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located in Dublin, California.

11. Sybase is in the business of developing and marketing software that integrates

platforms, databases and applications.

12. For more than 20 years, Sybase has been a leader in developing and expanding innovative technology, including the Sybase IQ product.

13. Designed from the start as an analytics server, Sybase IQ produces its outstanding results because of its unique patented architecture.

14. Compatible with standard hardware platforms and leading analytics applications, Sybase IQ offers extraordinarily high performance at a lower cost than alternatives.

15. Sybase IQ also reduces storage and server requirements compared to traditional database management systems.

16. Sybase is informed and believes and thereon alleges that Defendant Vertica is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located in Andover, Massachusetts.

FIRST CLAIM FOR RELIEF

(Patent Infringement)

17. On August 11, 1998, United States Patent No. 5,794,229 (“the ‘229 Patent”), entitled “DATABASE SYSTEM WITH METHODOLOGY FOR STORING A DATABASE TABLE BY VERTICALLY PARTITIONING ALL COLUMNS OF THE TABLE,” duly and legally issued to Sybase as the assignee of Clark French and Peter White.

18. On and since August 11, 1998, Sybase has been and still is the owner of all rights, title, and interest in the ‘229 Patent.

19. A true and correct copy of the ‘229 Patent is attached as Exhibit A to this Complaint and is incorporated herein in its entirety.

20. Vertica has directly and indirectly infringed, and continues to infringe, literally

and/or under the Doctrine of Equivalents, one of more claims of the '229 Patent by manufacturing, using, offering for sale, selling within the United States and/or importing into the United States one or more products, including its Vertica Database product, which embody or practice the claimed invention of the '229 Patent, without authority or license from Sybase.

21. Vertica is liable under 35 U.S.C. Section 271(b)-(c) by actively inducing and contributing to others' infringement of one or more claims of the '229 Patent.

22. Sybase is informed and believes and thereon alleges that Vertica's infringement of the '229 Patent has been willful.

23. By the aforesaid actions, Vertica has violated the patent laws of the United States, 35 U.S.C. Section 271, *et al.*, and will continue to do so unless permanently enjoined by the Court.

24. These actions by Vertica have caused significant damage to Sybase in an amount to be determined at trial.

25. These actions by Vertica have caused and will continue to cause Sybase irreparable injury for which Sybase has no adequate remedy at law.

JURY DEMAND

26. Pursuant to Rule 38 of the Federal Rules of Civil Procedure and Local Rule CV-38, Sybase respectfully demands that the issues in this case so triable be tried by a jury.

PRAYER FOR RELIEF

WHEREFORE, Sybase respectfully requests that this Court:

a. Enter judgment for Sybase that Vertica has infringed the '229 Patent by making, using, offering for sale, selling and/or importing the Vertica Database product and any other infringing products;

b. Enter judgment for Sybase that Vertica's infringement of the '229 Patent was willful;

c. Issue a permanent injunction restraining Vertica, its officers, directors, employees, agents, attorneys, subsidiaries, affiliates, successors and assigns, and all others in active concert or participation with Vertica or under Vertica's authority, from making, using, offering for sale, selling and/or importing infringing database-related products, and from otherwise infringing, contributing to the infringement of, or actively inducing infringement of, the '229 Patent;

d. Order Vertica to file with this Court, and to serve on Sybase, a written report under oath setting forth in detail the manner and form in which Vertica has complied with the injunction;

e. Order an award of damages adequate to compensate Sybase for Vertica's acts of infringement, contributory infringement, and active inducement of infringement of the '229 Patent, including but not limited to monetary damages of no less than a reasonable royalty;

f. Order an award of treble damages pursuant to 35 U.S.C. Section 284;

g. Order and decree, pursuant to 35 U.S.C. Section 285, that this an exceptional case entitling Sybase to an award of its reasonable attorneys' fees and costs;

h. Order that Sybase be awarded its costs and reasonable attorneys' fees incurred in this action;

i. Order an award of pre-judgment and post-judgment interest at the maximum rate allowed by law on the above damages awards;

j. Grant such other and further relief as this Court deems just and appropriate.

Dated: January 30, 2008

Respectfully submitted,

/s/ Michael E. Jones

Michael E. Jones

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